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EXTRAORDINARY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 6th June, 1992/Jyaistha 16, 1914 (Saka)

THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES) ORDINANCE, 1992

No. 10 OF 1992

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for the establishment of a Special Court for the trial of offences relating to transactions in securities and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Special Court (Trial of Offences Relating to Transactions in Securities) Ordinance, 1992.

(2) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,—

(a) "Code" means the Code of Criminal Procedure, 1973:

Short title and commencement.  
Definitions.

(b) "Custodian" means the custodian appointed under sub-section (1) of section 3;

(c) "securities" includes —

(i) shares, scrips, stocks, bonds, debentures, debenture stock, units of the Unit Trust of India or any other Mutual Fund or other marketable securities of a like nature in or of any incorporated company or other body corporate;

(ii) Government securities; and

(iii) rights or interests in securities;

(d) "Special Court" means the Special Court established under sub-section (1) of section 5.

Appoint-  
ment  
and func-  
tions of  
custodian.

3. (1) The Central Government may appoint one or more Custodians as it may deem fit for the purposes of this Ordinance.

(2) The Custodian may, on being satisfied on information received that any person has been involved in any offence relating to transactions in securities after the 1st day of April, 1991 and on and before the promulgation of this Ordinance, notify the name of such person in the Official Gazette.

(3) Notwithstanding anything contained in the Code, on and from the date of notification under sub-section (2), any property, movable or immovable, or both, belonging to any person notified under that sub-section shall stand attached simultaneously with the issue of the notification.

(4) The property attached under sub-section (3) shall be dealt with by the Custodian in such manner as the Special Court may direct.

(5) The Custodian may take assistance of any person for discharging his duties under this section.

Contracts  
entered  
into  
fraudu-  
lently  
may be  
cancel-  
led.

4. If the Custodian is satisfied, after such inquiry as he may think fit, that any contract or agreement entered into at any time after the 1st day of April, 1991 and on and before the proclamation of this Ordinance in relation to any property of the person notified under sub-section (2) of section 3 has been entered into fraudulently or to defeat the provisions of this Ordinance, he may cancel such contract or agreement and on such cancellation such property shall stand attached under this Ordinance:

Provided that no contract or agreement shall be cancelled except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

Establish-  
ment of  
Special  
Court.

5. (1) The Central Government shall, by notification in the Official Gazette, establish a court to be called Special Court.

(2) The Special Court shall consist of a sitting judge of the High Court nominated by the Chief Justice of the High Court within the local limits of whose jurisdiction the Special Court is situated, with the concurrence of the Chief Justice of India.

Cogni-  
zance of  
cases by  
Special  
Court.

6. The Special Court shall take cognizance of or try such cases as are instituted before it or transferred to it as hereinafter provided.

7. Notwithstanding anything contained in any other law, any prosecution in respect of any offence referred to in sub-section (2) of section 3 shall be instituted only in the Special Court and any prosecution in respect of such offence pending in any court shall stand transferred to the Special Court.

Jurisdiction of Special Court.

8. The Special Court shall have jurisdiction to try any person concerned in the offence referred to in sub-section (2) of section 3 either as a principal, conspirator or abettor and all other offences and accused persons as can be jointly tried therewith at one trial in accordance with the Code.

Jurisdiction of Special Court as to joint trials.

9. (1) The Special Court shall, in the trial of such cases, follow the procedure prescribed by the Code for the trial of warrant cases before a magistrate.

Procedure and powers of Special Court.

(2) Save as expressly provided in this Ordinance, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Ordinance, apply to the proceedings before the Special Court and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session and shall have all the powers of a Court of Session, and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

(3) The Special Court may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted.

10. (1) Notwithstanding anything in the Code, an appeal shall lie from any judgment, sentence or order, not being interlocutory order, of the Special Court to the Supreme Court both on facts and on law.

Appeal.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order of the Special Court.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of any judgment, sentence or order of the Special Court:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

11. (1) Notwithstanding anything contained in the Code and any other law for the time being in force, the Special Court may make such order as it may deem fit directing the Custodian for the disposal of the property under attachment.

Discharge of liabilities.

(2) The following liabilities shall be paid or discharged in full, as far as may be, in the order as under:—

(a) all revenues, taxes, cesses and rates due from the persons notified by the Custodian under sub-section (2) of section 3 to the Central Government or any State Government or any local authority;

(b) all amounts due from the person so notified by the Custodian to any bank or financial institution;

(c) any other liability as may be specified by the Special Court from time to time.

Protec-  
tion of  
action  
taken in  
good  
faith.

12. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Custodian for anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Ordinance.

Ordi-  
nance  
to have  
over-  
riding  
effect.

13. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Ordinance, or in any decree or order of any court, tribunal or other authority.

Power  
to make  
rules.

14. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

(2) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

R. VENKATARAMAN,  
*President.*

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K. L. MOHANPURIA,  
*Secy. to the Govt. of India.*